

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

SEBASTIAN SMITH,

Plaintiff,

v.

ROBERT PATTON, Director, et al.,

Defendants.

Case No. CIV-17-731-F

ORDER

Plaintiff, a state prisoner appearing pro se, has filed a Motion to Dismiss the above-captioned action. In his Motion, Plaintiff seeks to dismiss his pending claims without prejudice. *See* Doc. No. 16 (filed Nov. 13, 2017).

Because no defendant has answered or moved for summary judgment, Plaintiff's Motion operates as a dismissal of this lawsuit "without a court order." *See* Fed. R. 41(a)(1)(A)(i); *Janssen v. Harris*, 321 F.3d 998, 999-1001 (10th Cir. 2003) (holding that order of dismissal was a nullity because "under Rule 41(a)(1)(i) [now Rule 41(a)(1)(A)(i)], a plaintiff has an absolute right to dismiss without prejudice and no action is required on the part of the court"). The filing of a Rule 41(a)(1)(A)(i) notice "closes the file" and "the court has no role to play." *Janssen*, 321 F.3d at 1000 (internal quotation marks omitted).

This action therefore is deemed dismissed without prejudice effective November 13, 2017. *See* Fed. R. Civ. P. 41(a)(1)(B).

IT IS SO ORDERED this 14th day of November, 2017.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE